

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Nicolas CESAREO

Defendant.

Magistrate Case No. 07 MJ 2704

COMPLAINT FOR VIOLATION OF

Title 8, U.S.C., Section 1326

Attempted Entry After

Deportation

DEPUTY

The undersigned complainant being duly sworn states:

On or about **November 19, 2007**, within the Southern District of California, defendant **Nicolas CESAREO**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the **San Ysidro Port of Entry**, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT
Sara Esparagoza, United States Customs
and Border Protection Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **20TH** DAY OF **NOVEMBER 2007**.


UNITED STATES MAGISTRATE JUDGE

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PROBABLE CAUSE STATEMENT

On November 19, 2007 at about 0208 hours, **Nicolas CESAREO (Defendant)** attempted to enter the United States without inspection, through the San Ysidro Port of Entry, while concealed in the trunk of a 1993 Honda Accord. A Customs and Border Protection (CBP) Officer discovered Defendant and subsequently referred all occupants in the vehicle to secondary for further processing.

In secondary, it was determined that Defendant is a citizen of Mexico without entitlements to enter or reside in the United States. Defendant was queried by fingerprint and photograph comparison through the Automated Biometric Identification System (IDENT). IDENT returned a match to the query, identifying Defendant as a deported alien and citizen of Mexico. Defendant's identity was verified by 10-digit fingerprint submission through the Integrated Automated Fingerprint Identification System (IAFIS). IAFIS linked Defendant to FBI and Immigration Service records.

Immigration Service records to include the Deportable Alien Control System (DACS) and the Central Index System (CIS) identify Defendant as a deported alien. DACS information indicates Defendant was ordered deported or removed from the United States by an Immigration Judge on or about September 22, 2005 and was physically removed to Mexico on September 23, 2005 through the San Ysidro Port of Entry. Immigration Service records contain no evidence that Defendant has applied for or received permission from the Attorney General of the United States, or the Secretary of the Department of Homeland Security, to lawfully re-enter the United States.

On November 19, 2007 at about 0655 hours during a videotaped proceeding, Defendant was advised of his Miranda rights. Defendant acknowledged his rights and agreed to answer questions without the benefit of counsel. During a subsequent interview, Defendant stated he is a citizen of Mexico by birth in Puebla, Puebla, Mexico. Defendant admitted to attempting to enter the United States by concealment in the trunk area of a vehicle. Defendant admitted receiving a felony Robbery conviction and admitted to serving a two year sentence term. Defendant admitted he does not possess any type of document or other benefit that would permit his legal re-entry into the United States. Defendant denied having applied for or receiving permission from the United States Attorney General or his successor, the Secretary of the Department of Homeland Security, to lawfully re-enter the United States. Defendant stated he was going to Los Angeles, California to seek employment.